

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

MICHA GRYDER AND GARLYN GRYDER, AS
WRONGFUL DEATH BENEFICIARIES OF
WILLIAM C. GRYDER, V, AND THE ESTATE OF
WILLIAM C. GRYDER, V, BY AND
THROUGH MICHA GRYDER, ADMINISTRATRIX

PLAINTIFFS

v.

CIVIL ACTION NO. 1:21cv245 TBM-RPM

SKEETERS, LLC d/b/a SKEETERS
BAR & GRILL, AND JOHN DOES 1-10

DEFENDANTS

NOTICE OF REMOVAL

TO: Gerald J. Diaz, Jr., Esq.
James R. Segars, III, Esq.
DIAZ LAW FIRM, PLLC
208 Waterford Square, Ste. 300
Madison, MS 39110

Connie Ladner, Clerk
Harrison County Circuit Court
735 Dr. Martin Luther King, Jr. Blvd.
Biloxi, MS 39530

COMES NOW Defendant Skeeters, LLC d/b/a Skeeters Bar & Grill (“Skeeters” or “Defendant”), by and through counsel, and files its Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and in support thereof show unto the Court the following:

1. The Plaintiffs filed their Complaint on or about June 22, 2021, in the 2nd Judicial District of the Circuit Court of Harrison County, Mississippi. The Complaint was docketed in that court as *Micha Gryder and Garyln Gryder, as Wrongful Death Beneficiaries of William C. Gryder, V, and the Estate of William C. Gryder, V, by and Through Micha Gryder, Administratrix*, bearing Civil Action No. A2402-2021-104.

2. In accordance with 28 U.S.C. § 1447(b) and L.U.Civ.R. 5(b), a copy of the state court pleadings are being filed herewith.

3. The Complaint in the above-entitled cause is of a civil nature at law brought by the Plaintiffs which seeks to recover damages alleged to have been suffered as a result of the Defendant's negligence. See, Exhibit "A," Complaint, at ¶ 38.

4. The Plaintiffs Micha Gryder and Garlyn Gryder are, according to the allegations of the Complaint, adult resident citizens of Mississippi. See Complaint, ¶ 1 - 2.

5. The Plaintiff, Estate of William C. Gryder, V, according to the allegations of the Complaint, is an estate filed in Mississippi. See Complaint, ¶ 3.

6. Plaintiffs named Skeeters, LLC d/b/a Skeeters Bar & Grill as Defendant.

7. Defendant Skeeters is an LLC organized under the laws of Mississippi with its principal place of business in Mississippi. See Complaint, ¶ 4.

8. The citizenship of an LLC for diversity jurisdiction purposes is "determined by the citizenship of all its members." *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). Defendant Skeeters has one member, Vernon Wilson. Vernon Wilson is a resident and citizen of Florida where he maintains a house and property on which he claims a homestead exemption and pays taxes, where his car is registered and titled, and where he has his driver's license. See Exhibit "B" Residency Records of Vernon Wilson.

9. Therefore, according to the allegations of the complaint, this controversy is wholly between the Plaintiffs, citizens of Mississippi, and Defendant, an LLC with citizenship in Florida. Therefore, there is complete diversity of citizenship between the Plaintiffs and the Defendant.

10. The Plaintiff's Complaint seeks damages arising out of an alleged incident occurring on or about November 24, 2020, which allegedly resulted in the death of William C. Gryder, V. In the complaint, Plaintiff lists the following specific damages:

- a. Medical and other healthcare-related expenses of William C. Gryder, V, deceased;
- b. Present net cash value of the life expectancy of William C. Gryder, V, deceased;
- c. Burial and funeral expenses of William C. Gryder, V, deceased;
- d. Physical pain and suffering of William C. Gryder, V, deceased, that resulted until the instant of his death;
- e. Mental anguish and emotional pain and suffering of William C. Gryder, V, deceased, that resulted until this instant of his death;
- f. Loss of services, comfort, society, protection, support, abilities, counsel, affection and companionship of William C. Gryder, V, deceased.
- g. Punitive damages as allowable by law; and
- h. All damages of every kind of the decedent William C. Gryder, V, and of the Plaintiffs as provided under Miss. Code § 11-7-13 and allowable under the laws of the State of Mississippi.

See Complaint, ¶ 38.

11. While the Complaint does not allege a specific dollar amount of damages, the Plaintiffs also seek recovery of punitive damages from the Defendant. See Complaint, ¶ 38.

12. Federal courts in Mississippi “have consistently held that a claim for an unspecified amount of punitive damages is deemed to exceed the federal jurisdictional minimum.” *Sun Life. Assur. Co. of Canada (U.S.) v. Fairley*, 485 F. Supp. 2d 731, 735 (S.D. Miss. 2007) (citing *Brasell v. Unumprovident Corp.*, 2001 WL 1530342, at *1 (N.D. Miss. 2001)(collecting cases)).

13. In order to show that the jurisdictional amount has not been met, the Plaintiff must show with legal certainty that the recovery will not exceed the amount stated in the complaint. *De Aguilar v. Boeing Co.*, 47 F.3d at 1410 (5th Cir.1995). Then, “it must

appear to a legal certainty that the claim is really for less than the jurisdictional amount to justify dismissal.” *Id.* (quoting *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S.283, at 289).

14. Therefore, pursuant to the provisions of Title 28 U.S.C. § 1441 et seq., this civil action is removable by the Defendant.

15. Defendant Skeeters was served with process on June 30, 2021. Therefore, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b).

16. By filing this Notice of Removal, Defendant gives notice to Plaintiffs and the clerk of the Circuit Court of Harrison County, Mississippi, together with the exhibits thereto, all in compliance with Title 28 U.S.C. 1446(d).

WHEREFORE, PREMISES CONSIDERED, Defendant Skeeters, LLC d/b/a Skeeters Bar & Grill, prays that this Notice of Removal and exhibits thereto, be received and filed, and that the Circuit Court of Harrison County, Mississippi, proceed no further herein. Defendant further prays for all necessary writs to bring before this Honorable Court all records and proceedings in the said Circuit Court of Harrison County, Mississippi, and Defendant prays for such other, further, special and general leave as it is entitled to receive.

THIS the 20th day of July, 2021.

Respectfully submitted,

SKEETERS, LLC d/b/a
SKEETERS BAR & GRILL

By Its Attorneys

DunbarMonroe, PLLC

BY: /s/David C. Dunbar
David C. Dunbar
Heather L. Hall

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, the undersigned attorney for Defendant Skeeters, LLC d/b/a Skeeters Bar & Grill, hereby certify that I have this day filed the original of the above and foregoing Notice of Removal and that upon the filing of the original Notice, I have served a true and correct copy of same to:

Gerald J. Diaz, Jr., Esq.
James R. Segars, III, Esq.
DIAZ LAW FIRM, PLLC
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Madison, MS 39110

joey@diazlawfirm.com
tripp@diazlawfirm.com

Connie Ladner, Clerk
Harrison County Circuit Court
735 Dr. Martin Luther King, Jr. Blvd.
Biloxi, MS 39530

THIS the 20th day of July, 2021.

/s/David C. Dunbar

David C. Dunbar
Heather L. Hall